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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 JAMES WILLIAM MYERS,) NO. CV 15-2534-E
12 Plaintiff,)
13 v.) ORDER RE: "COUNSEL'S MOTION
14 CAROLYN W. COLVIN, Acting) FOR ATTORNEY FEES PURSUANT TO
15 Commissioner of Social Security,) 42 U.S.C. § 406(b)"
16 Defendant.)
17

18 On September 12, 2016, counsel for Plaintiff filed "Counsel's
19 Motion for Attorney Fees Pursuant to 42 U.S.C. § 406(b)." On
20 October 7, 2016, Defendant filed a response. Counsel for Plaintiff
21 seeks attorneys fees in the amount of \$13,187.00.
22

23 **BACKGROUND**
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25 The Court previously remanded this matter to the Commissioner for
26 further administrative action. The Commissioner subsequently awarded
27 benefits to Plaintiff totaling \$52,748.80. Plaintiff's counsel
28 represented Plaintiff under a contingent fee agreement providing for

1 fees in the amount of 25 percent of past-due benefits.

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3 **APPLICABLE LAW**

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5 Section 406(b) (1) of Title 42 provides:

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7 Whenever a court renders a judgment favorable to a claimant
8 . . . who was represented before the court by an attorney,
9 the court may determine and allow as part of its judgment a
10 reasonable fee for such representation, not in excess of
11 25 percent of the total of the past-due benefits to which
12 the claimant is entitled . . . In case of any such judgment,
13 no other fee may be payable . . . for such representation
14 except as provided in this paragraph. 42 U.S.C. §
15 406(b) (1) (A) .

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17 According to the United States Supreme Court, section 406(b)
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19 does not displace contingent-fee agreements as the primary
20 means by which fees are set for successfully representing
21 Social Security benefits claimants in court. Rather,
22 § 406(b) calls for court review of such arrangements as an
23 independent check, to assure that they yield reasonable
24 results in particular cases. Congress has provided one
25 boundary line: Agreements are unenforceable to the extent
26 that they provide for fees exceeding 25 percent of the past-
27 due benefits. Within this 25 percent boundary . . . the
28 attorney for the successful claimant must show that the fee

1 sought is reasonable for the services rendered. Gisbrecht
2 v. Barnhart, 535 U.S. 789, 807 (2002) (citations omitted)
3 ("Gisbrecht").
4

5 The hours spent by counsel representing the claimant and
6 counsel's "normal hourly billing charge for noncontingent-fee cases"
7 may aid "the court's assessment of the reasonableness of the fee
8 yielded by the fee agreement." Id. at 808. The Court appropriately
9 may reduce counsel's recovery
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11 based on the character of the representation and the results
12 the representative achieved. If the attorney is responsible
13 for delay, for example, a reduction is in order so that the
14 attorney will not profit from the accumulation of benefits
15 during the pendency of the case in court. If the benefits
16 are large in comparison to the amount of time counsel spent
17 on the case, a downward adjustment is similarly in order.
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19 Id. (citations omitted).
20

21 DISCUSSION

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23 The fee sought does not exceed the agreed-upon 25 percent of
24 past-due benefits. Neither "the character of the representation" nor
25 "the results the representative achieved" suggest the unreasonableness
26 of the fee sought. Plaintiff's counsel was not responsible for any
27 significant delay in securing Plaintiff's benefits. Because the
28 present case is legally indistinguishable from Crawford v. Astrue,

1 586 F.3d 1142 (9th Cir. 2009), this Court is unable to find that a
2 comparison of the benefits secured and the time Plaintiff's counsel
3 spent on the matter suggest the unreasonableness of the fee sought.
4 Therefore, the Court concludes that "the fee sought is reasonable for
5 the services rendered," within the meaning of Gisbrecht.

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7 **ORDER**
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9 Section 406(b) fees are allowed in the gross amount of
10 \$13,187.00, to be paid out of the sums withheld by the Commissioner
11 from Plaintiff's benefits. Counsel shall reimburse Plaintiff in the
12 amount of \$3,000.00, previously paid by the Government under the Equal
13 Access to Justice Act.

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15 IT IS SO ORDERED.
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17 DATED: October 18, 2016.
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19 /s/
20 CHARLES F. EICK
21 UNITED STATES MAGISTRATE JUDGE
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